

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Leach & Battin Analyst: Kristina North Bill Number: AB 149

Related Bills: See previous analyses Telephone: 845-6978 Amended Date: June 1, 1999

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Long-Term Care Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE ALL OF THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended May 18, 1999.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED MAY 18, 1999 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law, this bill would allow a credit equal to the amount paid or incurred by a taxpayer for the cost of long-term care or long-term care insurance coverage for any family member of the taxpayer.

SUMMARY OF AMENDMENT

The June 1, 1999, amendment requires:

- ◆ the family member to be deficient in two out of six activities of daily living (eating, toileting, transferring, bathing, dressing, and continence) to be eligible for the credit.
- ◆ the long-term care facility or home care giver to provide the taxpayer with written verification, specifying the name of the taxpayer, payments made for the long-term care, the name of the individual receiving the long-term care, and the time period covered.

Except for these changes, which partially resolve the verification concern and partially resolve the definitional concern stated in the department's analysis of the bill as amended May 18, 1999, and the new implementation concerns, the remainder of the department's previous analysis still applies.

Implementation Considerations

The Internal Revenue Code section referenced to determine if a family member is deficient in the daily activities of life does not include the federal requirement that a licensed health care practitioner certify the deficiency. Unless the reference is expanded to include IRC 7702B(c)(2)(A), it is

Board Position:

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Department/Legislative Director Date

Johnnie Lou Rosas **6/28/1999**

unclear who would be responsible for making that determination.

This bill uses a definition of long-term care that differs from that in federal and state tax law regarding the deductibility of long-term care services and long-term care insurance. Moreover, to determine eligibility for the family member, this bill also refers, in part, to the six daily activities provided in federal tax law. The use of different definitions may confuse taxpayers and complicate implementation of this credit. The author may wish to consider referencing the IRC definition for long-term care.

Payments to long-term care providers or home care givers are not required to claim this credit. Once eligibility for the credit is established, payments for anything related to long-term care could qualify for this credit; however, verification would only be required for payments made to long-term care providers or home care givers. Payments not subject to verification may be difficult for the department to verify and could lead to disputes between taxpayers and the department. The author may wish to consider limiting qualifying costs to payments made to care providers for the areas of daily living in which the family member is deficient.

Since the qualifying family member must be deficient in two areas of daily living, long-term care insurance for prospective coverage would not qualify; only those insurance payments for someone currently deficient in exactly two areas would qualify.

TECHNICAL CONSIDERATION

This bill specifies that a family member must be deficient in "two out of six activities of daily living." If the author does not intend the family member to be deficient in precisely "two" daily living activities, the author may wish to clarify that the family member must be deficient in two "or more" of the daily living activities. Amendment 1 provided.

BOARD POSITION

Pending.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 149
As Amended June 1, 1999

AMENDMENT 1

On page 2, line 18, after "two" insert:

or more